



STATE OF CALIFORNIA

STATE BOARD OF EQUALIZATION

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E. L. SORENSEN, JR.
Executive Director

November 8, 1996

RE: Request for Opinion on Substitute Appeal Applicant

Dear Mr.

In your letter of October 25, 1996 you asked for our opinion regarding the proper resolution of an appeal applicant conflict based on the following facts as related by you.

You timely filed the assessment appeal application in question on August 8, 1995 pursuant to an agency agreement properly executed by the corporate owner of the property on April 18, 1995. On June 28, 1996 (the following year), the bank foreclosed on the property. The appeal is scheduled for hearing on November 13, 1996, and by letter the bank has asked the board to dismiss your agency so that it may conduct the appeal on the ground that it is the "party affected" within the meaning of the applicable statute and property tax rule.

Your question to the Board of Equalization is: does the bank have the right to simply take over the application because it would surely benefit from any reduction in the assessed values?

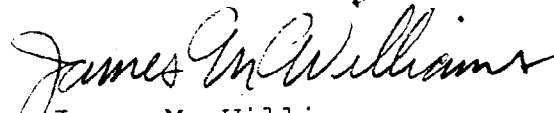
Initially, I want to clearly point out that any disputes between non-governmental parties, i.e. you, the bank or the prior owner, are of no consequence to the assessment appeals board. For purposes of this appeal, the board is legally constrained with minor exception by the application which was on file at the close

November 8, 1996

of filing for the 1995-96 tax year. For the 1995-96 tax year only the corporate owner and not the bank had standing to file the appeal. In other words, your principal was the "party affected" at the close of filing, so that the bank had no legal right to file a timely appeal. The agency agreement legally requires the board to permit you to conduct the appeal, which primarily means the hearing. There is no provision in the statutes or the rules that would permit a non-filing, subsequent owner to assert the status of "party affected" in the face of an otherwise valid application wherein the designated agent is prepared to conduct the hearing.

Please be advised that our opinion is not binding on the county assessment appeals board; the Board will rely on guidance provided by its counsel. I will provide a copy of this letter to the Santa Clara County Assessment Appeal Board so that its counsel will have the benefit of our view.

Very truly yours,


James M. Williams
Tax Counsel

JMW:jd

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cc: Mr. Jim Speed, MIC:63
Mr. Dick Johnson, MIC:64
Ms. Jennifer Willis, MIC:70

Ms. Hortensia Herrera, Clerk
Santa Clara County Assessment Appeals Board